



Dianne Barker
5111 No. 40th Street, C114
Phoenix, Arizona 85018
(602) 999-4448

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF ARIZONA**

Dianne Barker ,
Plaintiff

Case # 2:11-CV 01543-PHX

v

AMENDED COMPLAINT
42 U.S. 1983, ADA 1990,
REHAB ACT 1973, 18 USCA 1962
"Whistleblower" OSHA 1970 Sec 11c
Federal Tort Claims- PI/Property

Mayor Philip Gordon, City of Phoenix, et al)
Jose Mesa Ramirez, 21st Century Insurance of So)
West; Jimmy Meza Muneton/ Jose Mesa Ramirez)
Mayor Jim Lane, City of Scottsdale, et al-(Enjoiner:
28 USC 1447,42 USC 1983, 18 USCA 1962)
Defendants

JURY TRIAL Demanded
on All Liability Issues

Background: On August 5th, 2011, City of Phoenix attorney, Gary Verburg and his Assistant, Christina E. Koehn, filed removal of plaintiff's tort action, CV 2011 011978 Superior Court of Maricopa County case per 28 USC 1441. There exists a pattern/policy at the City of Phoenix et al to litigate, but not fairly/peacefully resolve claims(prior-present ;10-0705-001), particularly 'wearing down' poor, unrepresented parties by discrimination' via current EOD (& past CV2 92Cv 01 291RGS ** Wrongfully held in contempt for talking in Court") ,Streets & Police, City Manager Depts, etc while preferring paying attorney's & clients without reason/cause(see 'Strocchio v City of Phoenix, Judge Gary Donahoe,CV2010-001139). This foul play and wrongs of the city has caused harm to plaintiff, an American citizen, for over 20 years, including City of Phoenix large contractors -Veolia 002586012826 WC-01 (Judicial knowledge that Mayor Gordon's girlfriend worked for Veolia during period he Mayor) & Hertz CV07-557-PHX-MHM (See 7/262008, p5, 26-28 "worker comp files") ignoring/ punishing victim for workplace injuries not her fault and with this genuine complaint (Details/Specific Facts of City liability -EX1, part 2 Aug 29, 2011, PLT Motion)., and being July 21, 2010, the City of Phoenix

and their employed (Individual) Mayor Phil Gordon created and maintained a service, intersection at 1st Street & Washington, totally unsafe under ADA, programs/services causing same short signal traffic signalization for right turn leading SUV to hit pedestrian. RICO conspiracy exists , a culture of silence toward plaintiff's rights, protections, pleas for relief likened to Pen State.

Jurisdiction:

This court has jurisdiction under 28 U.S.C. § 1331. Federal question jurisdiction arises pursuant to 42 U.S.C. § 1983. **Venue:** is proper pursuant to 28 U.S.C. § 1391 because defendant(s) municipal governments, Individuals and the plaintiff lives in this district , events and property at issue here..

Parties:

Plaintiff Dianne Barker) resides at 5111 N 40th ST, C114, Phoenix, AZ
Defendant Mayor Philip Gordon (Individual) resides at Phoenix, AZ.
Defendant City of Phoenix et al, Phoenix, AZ
Defendant Ramirez/ Mesa -real Person(s) Phoenix, AZ;
/ Farley, Seletos, Choate Law Firm/ Christopher D. Stickland-
Defendant & Century 21 Insurance So West of Arizona
Defendant (Individual) Jim Lane employed as Mayor of Scottsdale
Defendant City of Scottsdale Et Al, Arizona

Statement of Facts & Laws Supporting Claims:

In addition to the above "background", this section fully supports plaintiff's claims for relief. On July 21, 2010, the City of Phoenix and their employed (Individual) Mayor Phil Gordon created and maintained a service, intersection at 1st Street & Washington, totally unsafe under ADA 1990, Rehab Act 1973, Civil Rights "unequal protection" , AZ Traffic Laws, programs/services causing same short signal traffic signalization for right turn leading SUV to hit this pedestrian/bicyclist. (EX* I-attached) Mayor Gordon gave light rail engineer, Parsons Brinkerhoff the "override traffic signalization contract "hogging" three(3) times time limit for rail and cars to "race Westbound" while pedestrian & SUV got less 1/3 of time to cross 9 (see P 7 Doc filing 8/05/11- City "INDEX") . **Claim I:** The City and Mayor Gordon neglect protecting human beings, certainly for SSDI individuals as myself in crossing that street. Here I am proper, all ARS Title Traffic Laws and, on mark, Maxwell v Gossett, AZ Supreme Court case law fully support plaintiff. The city accident report & city paramedics KNEW victim Barker had "bad back", and reported such, just as Scottsdale police did reported her stating "back problems" on 6/11/09 but they Intentionally and through continuing government conspiracy to date, willfully take my constitutional rights defy their Oaths Supporting of "American" . United States government.. City of Scottsdale on Mayor Lane's "watch", unlawfully took my driving rights, my Class A CLD right to earn living and work real estate. Am left financially hurt by their wrongs, left on scant deficient disability income , contributing to additional emotional and physical

injury by their wrongs to the 7/21/10 SUV hit. Thus, City of Scottsdale and its employed (Individual Mayor Jim Lane) is enjoined via Mayor Jim Lane, City of Scottsdale, et al-(Enjoiner: 28 USC 1447, 42 USC 1983, 18 USCA 1962) for willful misconduct conspiring to take constitutional rights, via 4th, 8th 14th amendment with policy to allow police and prosecutorial wrongdoing interfering with this plaintiff's legal counsel rendering her "ineffective counsel" Wrongs motioned on Scottsdale City "Prosecutor" judge (**EX* II- attached**) who displays deep-seated favoritism or antagonism that would make fair judgment impossible " **extrajudicial source**"; In Liteky v. United States, 510 U.S. 554-56, 114 S.Ct. 1147, 127 L.Ed.2d 474 (1994) . **Claim II:** They do not like "strong willed woman who "whistle-blow" on their foul practices and policies promoted by their respective (Individual) Mayors hurting citizens , certainly "profiled woman" speaking up defying her 1st amendment rights to free speech as City of Phoenix Police Report is false (p 6 8/5/11 Doc filing city INDEX") witness statement different proving police lied and they are liable for gross negligence under support of Mayor Gordon for INTENTIONALLY promoting foul practice and policy, and pattern** to "but out" this victim citizen from testimony on collision report against ARS 28 Traffic Laws, Due Process US & AZ Constitutions., allowing police to discriminate in collision investigation and it's review against plaintiff. First, Fourteenth Amendment- 42 U.S.C. § 1983. Claim III: RICO styled 28 USCA 1962 conspiracy, apparently doing so just for money and power, can be likened to recent "Penn State" conspirators, "culture of silence" by both City of Scottsdale and City of Phoenix. Both cities and their mayors are and have been subject to suffer when this party routinely speaks at committee, city council, MAG and with staff, mostly on the record, the truth of waste, abuse witnessed and evidenced found in government today in various departments including above cited police, streets, equal opportunity ,management. (EX* III- attached) Plaintiff is to be afforded UNSAFE practices, policies, persons and premises, OSHA 1970 Sec (11c) prohibition against retaliation. The public and court records (if not redacted) then has the truth, while this party, poor unrepresented female, one and same, is retaliated and punished to labor in endless court "wearing down". The majority male attorneys (& females supporting them as attorneys or other), are all in it for a paycheck, but not justice! The prosecution extends into the judicial bench, and Scottsdale & Phoenix City government turn blind eye, even aiding! Unrepresented minority women and poor in our society. r hire outside counsel to prosper for which I have discovered in government truth of waste, abuse witnessed and evidenced found in government today in various departments including above cited police, streets, equal opportunity ,management and UNSAFE practices, policies, persons and premises, OSHA 1970 Sec (11c) Plaintiff is to be afforded UNSAFE practices, policies, persons and premises, OSHA 1970 Sec (11c) prohibition against retaliation. The public and court records (if not redacted) then has the truth prohibition against retaliation

WHEREFORE, the plaintiff requests:

1. Compensatory damages- general ,special/punitive damages of \$244,900
2. Any other relief the court deems suitable
3. Make pedestrian-only segment in the traffic light cycle.
4. Training for Police Dept & Ethics (Oaths) for Cities: Phoenix and Scottsdale, et al

Demand for Jury Trial:

Plaintiff hereby requests a jury trial on all issues raised in this complaint.

Respectfully Submitted:

Dated: 22nd day of November 2011

By: *Dianne Barker*

Dianne Barker, Affiant*** IN Forma Pauperis Pro

***Attesting as most truthful to my best knowledge and understanding herein.

Exhibits* I.II.III : Attached

Service:

City of Phoenix, 200 W. Washington, 13th & 15th FLS, Phoenix, AZ 85003

21st Century Insurance of So West/ Farley Seletos Choate, 2400 W.
Dunlap, #305, Phoenix, AZ 85021

City of Scottsdale, 3700 No 75th St., Scottsdale, AZ 85251



Claims Department

Rita Ann Nelson
PO Box 52041
Phoenix, AZ 85072-2041
802-635-5544
1-866-729-9211 Fax
rita.nelson@21st.com

December 10, 2010

Dianne Barker
5105 N 40th St., E221
Phoenix, AZ 85018

RE: Insured: Jose Meza Ramirez
Claim Number: 1401203018
Policy Number: 5053305
Date of Loss: July 21, 2010
Claimant Name: Dianne Barker

Dear Dianne Barker:

Thank you for taking the time to speak with me this week regarding the facts of the above accident and your injury.

This letter is to inform you that we have completed our liability investigation into this matter and determined that both drivers/riders were equally at fault for this accident.

Mr. Muneton Meza had a duty to yield the right of way, however, he had nearly completed his turn when the impact occurred and his vehicle was impacted on the right rear. Arizona Revised Statute 28-792 A states A pedestrian shall not suddenly leave any curb or other place of safety and walk or run into the path of a vehicle that is so close that it is impossible for that driver to yield.

You did mention that you had all of your medical bills and records for your injury treatment and photographs and documentation of property damage to your bicycle and computer. We ask that you please forward that information to us so that we may evaluate your claim for settlement.

Should you not have your medical records and bills I've enclosed a medical authorization for you to fill out that gives us your permission to obtain the medical records and bills needed to properly evaluate your claim.

Please call with any questions.

(EX 11)

Name of Person Filing: Dianne Barker
 Address: 3111 N. 40th St. C114
 City, State, Zip Code: Phoenix, AZ 85018
 Day/Evening Telephone: (602) 999-4448

**SUPERIOR COURT OF ARIZONA
 IN MARICOPA COUNTY**

State of Arizona
 Plaintiff

Vs.

CR LC 2010 00540-001 DT
 TR 2009819646 TSW 2009003612
 Title:

Barker
 Name of Defendant

Stay ; Motion to
Vacate 10-11-11 Order ; Appoint Counsel

(The section below must be written to explain your request – what you want the Judge to order if he/she grants your request (Motion). If the Judge agrees with your request, he/she will sign an order or issue a "minute entry" noting his/her decision.)

This is what Judge Should Do: Stay lower Scottsdale City Court vacating 10/11/11 Order* And appoint defendant, ordered in forma pauperis an effective Counsel on all colorable claims, 1st Time Post Conviction Relief "PCR".

This is why Judge Should Do This: AZ & US Constitutional Right to Equal Protection, Due Process Entitle Defendant as well as ARRP 6.1B; counsel as effective ARRP 32.4 1st Petition for Post Conviction Relief PCR (Notice filed 11-15-10 in this court).
 * Lower Court order attached lacks discretion, not signed by a judge, not authorized RORD Deputy, processed SAME day motion filed. Public defender's Sanchez & Morrison never waived representation, do not communicate nor represent defendant.
 failing p. 1506 Superior Court Rules.

Today's Date: 11-5-11 Your Signature: Dianne Barker

CITY CLERK DEPT.

SA

2011 JUN -2 AM 11: 06

5111 No. 40th St., #C114
Phoenix, AZ 85018
June 1st, 2011

(EX III)

Mayor Phil Gordon, Council, Managers
City of Phoenix
200 West Washington Street, 11th
Phoenix, Arizona 85003-1611

Re: Demand Letter -Your File NO. 10-0705-001

Dear Mayor Gordon et al:

This letter serves as my demand for payment on above-mentioned claim against the City of Phoenix.

On July 21st, 2010, I was struck by a SUV truck, falling to crosswalk pavement, coming from the NW corner sidewalk of 1st St/Washington St. Injured, I was taken to Good Sam ER, and subsequently endured months of pain and rehabilitation. Clearly, the driver rammed into me while I was abiding traffic laws, while he obviously couldn't have been by hitting me! The city's controlled traffic actuated equipment utilized for "protective right turn" failed protecting me.

Additionally, the city 's liable for faulty, biased police officer reporting. Phoenix Police Department "PPD" shirks its exact mission for fair treatment, and oath upholding both US & AZ Constitutions for equal protections for all persons under law. Such careless, illegal behavior of officers not investigating collision under state law while denying my side and to speak and falsifying the witness statement is wrong and untruthful. It's perplexing that the driver escaped not being ticketed! Perhaps his pattern for failure to yield as his driver's record reveals, is now matched by PD officer's mal-reporting, or might there be bribery, too? Let's hope not!

Today, it's no surprise that unreliable Phoenix Standards Department "PSD" claims their internal investigation finding is for no violations in this matter. As you probably know, Ed Zuercher, Assistant City Manager, recommended to both you, Mayor Phil and City Council, just last month, a thorough review of PDS. This was based upon sound complaints of police misconduct, untimeliness, etc. Herein, PSD cites statutes: ARS 28-792, 28-645A, 28-812 in their PSD investigation (Exhibit A), but they're missing on PPD's report that took five (5) weeks to obtain from PPD records request! Being all stated laws support me, why am I to blame other than it's suspect they're just prejudiced, Regardless, their 1st statute simply doesn't even apply for this is a controlled" intersection, not uncontrolled. The 2nd law's a must for the driver to yield to vehicle/pedestrians in crosswalk, favoring me. The. 3rd law, elaborated in Arizona Supreme Court case: Maxwell v Gossett, proves the crosswalk

is a pedestrian/bicyclist-protected area. I am to be protected in the crosswalk, but not ever be subject to 2Ton vehicle hit!

Therefore, both City Code, Sec 2-122, stating it "s unlawful for the Phoenix Police Department Officers to file a false police report, and city's traffic signalization failing protective crossing, have harmed this disabled senior citizen. It also places general public in danger. Today, I still require care for lasting medical needs directly related to this vehicular accident. My injuries have been left shoulder contusion, narrowing of C-4-5-6 vertebrae, articular cartilage surface chondromalacia. and sub-deltoid bursitis. I seek immediate compensation of \$60,000 from the City of Phoenix for covering over \$25,000 medical bills including AHCCCS (state)/CMS (federal) recorded liens against me. The balance includes related property damages time/job loss, pain & suffering, embarrassment, copies, visits, phone calls, and research. City management has seen my organized, detailed, evidence including photos, documents, and records.

Finally, time is of the essence. It is difficult to believe the city claims committee actually thinks s it reasonable for me to recover by a paltry \$9,500 offered by the driver's insurance company, 21st Century of Southwest under any circumstances. certainly considering the facts of this matter! Seems risk management habitual referral to litigation is maybe akin to RICO method for just attorney's enrichment? If this not true, then Thomas J Kennedy's deposition remark (Exhibit B) is false? Score years ago, city EOD choose to send me to EEOC via City Code Sec 18 5-9. Federal case: CIV 1292-RGS commenced through years and volumes of litigation past recorded 5-6-94 "motion for indefinite discovery" proves not only discovery abuse, but attorney's denial of ethical obligations, both city and city contractor representatives. Never once from the beginning did they ever move/object to the non-entity " Phoenix Transit Authority" of the flawed, non-compliant Title VII "Right -to Sue" issued out of jurisdiction (Exhibit C)! Such fraudulent proceedings are always subject to justice and are re-opened in courts and media. Currently, we have opportunity to move forward past problems for conciliation and settlement. Federal and state lien holders desire payment. If the city still can't release itself from the "legal arm" of risk management's direction, other oversight authorities will soon be here to name a few such as DOJ civil rights /disability, FBI, SSDI-Medicare-Medicaid and AZAG.

Please call me at (602) 999-4448 by Friday noon, June 3rd to arrange convenient date of settlement conference to avoid further unpleasant action.

Sincerely yours,



Dianne Barker